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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/773,532

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EXAMINER

SCUDERI, PHILIP S

ART UNIT

PAPER NUMBER

2153

MAIL DATE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/773,532	Applicant(s) KAZMI ET AL.	
	Examiner Philip S. Scuderi	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 26-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation “first servers configured to receive digital content from a client” (emphasis added). This limitation (the “configured to” language) clearly requires the servers to be structurally capable of receiving digital content from a client.

However, claim 1 further recites the limitation “the digital content uploaded from the client” (emphasis added). This limitation lacks antecedent basis because the claim does not actually require the digital content to be uploaded as detailed above.

Given that the two limitations above appear to contradict each other it is unclear to whether it is applicant's intention to require the digital content to actually be uploaded from the client. The examiner's best guess is that the claim actually requires the digital content to be uploaded. The examiner will treat the claim on the merits accordingly.

Claims 2-12 depend from claim 1 and do not cure the deficiencies of claim 1. Thus, they are rejected for the same reasons.

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 6, 8, 11-14, 18, 20, 23 and 24 rejected under 35 U.S.C. 103(a) as being unpatentable over Baumeister (U.S. Pub. No. 2001/0034786).

As to claim 1, Baumeister teaches a system comprising:

a first server (stream server) configured to receive digital content from a client (see fig. 2, 3),

and

an ingest server (FTP server) configured to receive the digital content (see fig. 2, 3),

the digital content to be available to users via the first server (stream server) (see fig. 2, 3);

and

a central site geographically remote from the first server (stream server) and the ingest server (FTP server), the central site comprising an ingest queue server (stream server portal) to direct transfer of digital content from the ingest server (FTP server) to the first server (stream server) based on client identifying information (see fig. 2, 3, ¶45, 46).

1. Baumeister does not expressly disclose that clients upload the digital content to the FTP server (i.e., the “first server”).

The examiner takes official notice that a client that uploads content to an FTP server was notoriously well known in the art.

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One of ordinary skill in the art would readily appreciate that uploading the content to the FTP server would have been a convenient means for providing the content to the FTP server. It would therefore have been obvious to do so here.

2. Baumeister does not expressly disclose that the stream server (i.e., the “first server”) and the FTP server (i.e., the “ingest server”) form a "site."

The specification does expressly define a “site.” The specification appears to suggest that a “site” is merely any groups of servers where it states “a site ... of a group of one or more ... servers” in ¶32. Accordingly, the examiner interprets the term "site" to require one or more servers. The stream server (i.e., the “first server”) and the FTP server (i.e., the “ingest server”) shown by Baumeister in figures 2 and 3 clearly meet this interpretation. And, this site is clearly “remote” from, e.g., the stream server portal, making it a "remote site."

As to claim 13, Baumeister teaches a method for facilitating access by users to digital content of one or more clients, each client having client identifying information, the method comprising:

receiving information about digital content at a central site (stream portal server) from a client (see fig. 2, 3);

analyzing the client identifying information (see ¶45, 46);

directing transfer of digital content from an ingest server (FTP server) to another server (stream server) based on the client identifying information (see fig. 2, 3, ¶45, 46).

1. Baumeister does not expressly disclose uploading the digital content to the FTP server (i.e., the “ingest server”).

The examiner takes official notice that a client that uploads content to an FTP server was notoriously well known in the art.

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One of ordinary skill in the art would readily appreciate that uploading the content to the FTP server would have been a convenient means for providing the content to the FTP server. It would therefore have been obvious to do so here.

2. Baumeister does not expressly disclose that the stream server (i.e., “another server”) and the FTP server (i.e., the “ingest server”) form a “site.”

The specification does expressly define a “site.” The specification appears to suggest that a “site” is merely any groups of servers where it states “a site ... of a group of one or more ... servers” in ¶32. Accordingly, the examiner interprets the term “site” to require one or more servers. The stream server (i.e., the “first server”) and the FTP server (i.e., the “ingest server”) shown by Baumeister in figures 2 and 3 clearly meet this interpretation. And, this site is clearly “remote” from, e.g., the stream server portal, making it a “remote site.”

As to claims 2 and 14, it would have been obvious to have clients upload the content to the FTP server, as detailed above. These clients are associated with the FTP servers' site because it stores their content.

As to claims 6 and 18, Baumeister discloses sites that are geographically distributed (see fig. 2, 3).

As to claims 8 and 20, Baumeister teaches a second server (stream server) for managing digital content at the remote site; a storage server (FTP server) configured to store digital content; wherein the second server (stream server) is coupled to the storage server (FTP server), the second server (stream server), configured to receive a request to access an item of digital content from a user and in response to the request, read the item of digital content stored on the storage server (FTP server) (see fig. 2, 3).

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As to claims 11 and 23, Baumeister teaches that the central site includes one or more first servers configured to receive digital content and make digital content available to users (see fig. 2, 3).

As to claims 12 and 24, Baumeister teaches that the transfer of digital content is caused by a user's request to experience the content (see fig. 2).

Claims 3, 4, 7, 9, 15, 16, 19, 21, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baumeister (U.S. Pub. No. 2001/0034786) in view of Colby (U.S. Pat. No. 6,006,264).

As to claims 7 and 19, Baumeister discloses that the Stream Server Portal chooses "suitable" Stream Server, but is silent as to how. It follows that Baumeister does not disclose that the transfer of digital content is based on the relationship between two or more sites.

In a similar art, Colby teaches a method for forwarding a request to a best-fit server based on server proximity to a client (see, e.g., Colby at abstract). It would have been obvious to one of ordinary skill in the art to select a suitable Stream Server here based on client proximity to minimize network latency.

As to claims 3, 4, 9, 15, 16, and 21, it would have been obvious to combine Baumeister with Colby as described in regards to claims 7 and 19.

Baumeister does not disclose that the client identifying information (see ¶45, 46) is or includes a location of the client, but the Stream Server Portal would need such information in order to select a suitable Stream Server based on client proximity. As such, it would have been obvious to one of ordinary skill in the art to include such location information with the client information.

As to claim 25, it would have been obvious to combine Baumeister with Colby as described in regards to claims 7 and 19. Colby further teaches that the transfer is to a remote site located proximate to a user (see, e.g., Colby at abstract).

Claims 5 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baumeister (U.S. Pub. No. 2001/0034786) in view of Layeghi (U.S. Pub. No. 2002/0019823).

Baumeister does not expressly disclose using a character set in connection with the media content. However, it was well known in the art to embed text into a media file using an expected character set, as evidenced by Layeghi (see ¶25). It would have been obvious to one of ordinary skill in the art to do the same here to provide additional information about the media content.

Claims 10 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baumeister (U.S. Pub. No. 2001/0034786) in view of Hans (U.S. Pub. No. 2002/0120577).

Baumeister does not disclose that the client identifying information used to select the streaming server is an amount of digital content that the client has transferred.

In a similar art, Hans teaches using an amount of digital content (the number of times particular works are transferred) that a client has transferred to determine whether to provide content to the client (see ¶ 29).

It would have been obvious to use the amount of digital content transferred in the same manner here because doing so would prevent a single client from overburdening the system.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip S. Scuderi whose telephone number is (571)272-5865. The examiner can normally be reached on Monday-Friday 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P.S./

/Glenton B. Burgess/

Supervisory Patent Examiner, Art Unit 2153